

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7799

BILL NUMBER: HB 1806

DATE PREPARED: Mar 30, 2001

BILL AMENDED: Mar 29, 2001

SUBJECT: Home Detention.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It requires a probation department or community corrections program supervising a violent offender on home detention to initially notify a law enforcement agency if the violent offender violates the home detention order.

(B) It prohibits a court from placing an offender on home detention if the offender resides in a different county, unless the offender is eligible for home detention in the county of residence and will be supervised by the probation department or a community corrections program in the offender's county of residence.

(C) It provides that home detention fees are to be paid to the county supervising the offender.

(D) It requires a probation department or community corrections program to constantly monitor a violent offender.

(E) It requires a probation department or community corrections department to develop criteria for determining if a person is a violent offender.

(F) It creates an offense for a person who is on home detention and who leaves the home, remains outside the home, or travels to an unauthorized location. It makes the offense a Class A misdemeanor.

(G) It also permits a person who is under home detention to be charged with escape by either intentionally violating a home detention order or intentionally removing an electronic monitoring device.

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) Provision G would make violating either a home detention order or intentionally removing an electronic device chargeable as a Class D felony. This could result in more offenses being charged as escape. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care,

food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) Provisions F and G: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 while the maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) Provisions A, B, and C: Program administrators and staff at the Department of Correction indicate that some violations occur because equipment malfunctions. In these cases, the staff of the probation department or the community corrections agency will visit the offender's home and determine whether the offender has actually violated the home detention order or whether an equipment malfunction occurred. If the offender has actually violated an order, then the department or agency staff contact the local law enforcement agencies.

Depending upon the number of false alarms that occur at the local level, this bill could increase the number of investigations of home detention violations that the local law enforcement agencies would need to perform.

The Indiana Judicial Center reports that 65 municipal, county, or community corrections agencies operated adult home detention programs with electronic monitoring and nine entities operated home detention programs without electronic monitoring in 2000. As of September 30, 2000, there were 6,430 juvenile and adult offenders on house arrest.

	With Electronic Monitoring	Without Electronic Monitoring	Total Number Of Offenders
Adult felons	4,637	64	4,701
Adult misdemeanants	1,195	67	1,262
Juvenile felons (if offense committed by an adult)	143	35	178
Juvenile misdemeanants (if offense committed by adult)	270	19	289
Total number of offenders	6,245	185	6,430

The statewide number of offenders who are on probation for violent crimes is not known. If this information becomes available, this fiscal note will be updated. In Marion County, 1,401 offenders were on probation for violent crimes in February, 2001. If there are a significant number of offenders sentenced for these crimes, then local probation departments may need to increase their surveillance capacity.

The types of offenses that are considered crimes of violence under this bill include the following:

- (1) murder (IC 35-42-1-1);
- (2) voluntary manslaughter (IC 35-42-1-3);
- (3) involuntary manslaughter (IC 35-42-1-4);

- (4) reckless homicide (IC 35-42-1-5);
- (5) aggravated battery (IC 35-42-2-1.5);
- (6) kidnapping (IC 35-42-3-2);
- (7) robbery as a Class A felony or a Class B felony (IC 35-42-5-1);
- (8) burglary as a Class A felony or a Class B felony (IC 35-43-2-1);
- (9) causing death when operating a motor vehicle (IC 9-30-5-5);
- (10) battery (IC 35-42-2-1);
- (11) domestic battery (IC 35-42-2-1.3);
- (12) arson (IC 35-43-1-1);
- (13) escape (IC 35-44-3-5);
- (14) stalking (IC 35-45-10-5); or
- (15) unlawful sale, manufacture, purchase, or possession of explosive or inflammable substances (IC 35-47-5-1)

The number of offenders who are assigned to home detention in another county was not known. The Marion County Community Corrections Program director indicated that in Marion County, 89 offenders from other counties were ordered to home detention in Marion County. Marion County staff do not supervise these offenders. If these offenders are not permitted to be assigned to home detention to another county, they may either be sent to prison, jail or assigned to some other type of supervised program.

Provision F: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: (Revised) Provisions F and G: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Probation departments, community corrections agencies, local law enforcement agencies, trial courts, local law enforcement agencies.

Information Sources: Judicial Conference of Indiana, 2000 Home Detention Report, Indiana Sheriffs Association, Department of Correction, Brian Barton, Marion County Community Corrections Program.